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PERROW *v.* WEBSTER et al.

Jan. 16, 1919.

[97 S. E. 770.]

1. **Equity (§ 463\*)—Bill of Review—Fraud—Evidence.**—Evidence held insufficient to show that plaintiff's attorney misled defendant into absenting himself from the taking of the deposition on which decree was based.

2. **Taxation (§ 710\*)—Sale—Redemption—Payment to County Clerk.**—Under Code 1904, §§ 650, 651, county clerk has no power to receive delinquent taxes and release lien, where land which has been sold to others than commonwealth, unless purchaser at time was not a resident of the county, could not be found therein, or had refused to accept payment of taxes from former owner.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 166.]

3. **Taxation (§§ 754, 765\*)—Tax Deed—Statutory Requirements—Want of Seal.**—A tax deed which wanted a seal and which failed to comply with certain statutory requirements was not void, but merely voidable; the defects being susceptible of remedy by a new deed.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 171.]

4. **Equity (§ 427 (1)\*)—Decree—Conformity to Pleadings.**—Where no process was issued on answer of a defendant, and no answer was filed thereto by another defendant, who had no notice thereof, such answer was erroneously treated as a cross-bill, and affirmative relief against other defendant granted thereon, though it asked no relief substantially different from that prayed in original bill.

[Ed. Note.—For other cases, see 8 Va.-W. Va. Enc. Dig. 296-9.]

5. **Specific Performance (§ 126 (3)\*)—Decree—Support by Pleadings.**—Bill quia timet in nature of bill for specific performance by purchaser of land from one who acquired title to part of land under county clerk's tax deed held not to support decree for rescission of contract of sale.

[Ed. Note.—For other cases, see 8 Va.-W. Va. Enc. Dig. 296-9.]

6. **Vendor and Purchaser (§ 112 (1)\*)—Right to Rescission—Covenants.**—Where vendor's deed covering land, to part of which he claimed title under county clerk's tax deed, was not merely general warranty deed, but covenanted for right to convey and to execute further assurances, purchaser tax deed on which title of part of land depended having failed, held entitled to rescind.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 546.]

Appeal from Circuit Court, Campbell County.

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\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

*H. C. Featherston*, of Lynchburg, for appellant.  
*W. M. Murrell*, of Lynchburg, *R. A. Russell*, of Rustburg,  
and *John G. Haythe*, of Lynchburg, for appellees.

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COMMONWEALTH *v.* BAILEY.

Jan. 16, 1919.

[97 S. E. 774.]

**1. Game (§ 5\*)—Hunting License—Person Who Hunts—"Hunt."**  
—In view of Acts 1916, c. 152, § 33, a fox hunter is a person who hunts, within section 32, requiring such persons to procure licenses when hunting on property other than their own; the word "hunt," as defined by lexicographers, meaning to take part in a chase for sport or exercise, as to hunt the fox.

**2. Game (§ 5\*)—Hunting Licenses—Exception.**—As Acts 1916, c. 152, imposes a general license tax upon all persons who hunt, etc. any exception thereto must be strictly construed, and those claiming to come within such exception must make it clearly appear.

[Ed. Note.—For other cases, see 12 Va.-W. Va. Enc. Dig. 771.]

**3. Statutes (§ 188\*)—Construction—Meaning of Words**—It is a fundamental rule of statutory construction that words used in an act are to be given their natural and ordinary meaning, unless it plainly appears they are used in some other sense.

[Ed. Note.—For other cases, see 12 Va.-W. Va. Enc. Dig. 767.]

Error to Circuit Court, Southampton.

Ernest Bailey was charged with hunting foxes without a license, in violation of Acts 1916, c. 152, and from a judgment of the circuit court, affirming a judgment of justices of the peace dismissing the warrant, the Commonwealth brings error. Reversed and remanded for further proceedings.

*The Attorney General*, for the Commonwealth.

*Junius W. Pulley*, of Courtland, for defendant in error.

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COMMONWEALTH *v.* HUTZLER.

Jan. 16, 1919.

[97 S. E. 775.]

**1. Licenses (§ 7 (8)\*)—Power of Legislature—License and Ad Valorem Tax.**—The Legislature may impose both a license tax upon

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\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.